

ACT No. VII OF 1903.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

Received the assent of the Governor General on the 20th March, 1903.)

An Act to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions, and for determining the amount of compensation to be made on account of such imposition.

WHEREAS it is expedient to provide for imposing restrictions upon the use and enjoyment of land in the vicinity of works of defence in order that such land may be kept free from buildings and other obstructions and for determining the amount of compensation to be made on account of such imposition; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Indian Works of Defence Act, 1903; and

Short title
and extent.

(2) It extends to the whole of British India, including British Baluchistan, the Sonthal Parganas and the Pargana of Spiti.

2. In this Act, unless there is something repugnant in the subject or context,—

Definitions.

(a) the expression “land” includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth:

(b) the

(Part I.—Preliminary.—Section 2.)

- (b) the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the imposition of restrictions upon the use and enjoyment of land under this Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :
- (c) the expression "Command " means one of the principal portions into which the Army of India is, for the time being, divided :
- (d) the expression "General Officer of the Command" means the General Officer Commanding the Forces in a Command :
- (e) the expression "Commanding Officer" means the officer for the time being in command of a work of defence :
- (f) the expression "Collector" includes any officer specially appointed by the Local Government to perform the functions of a Collector under this Act :
- (g) the expression "Court" means a principal Civil Court of original jurisdiction, unless the Local Government has appointed (as it is hereby empowered to do) a special judicial officer within any specified local limits to perform the functions of the Court under this Act :
- (h) "maintain", with its grammatical variations and cognate expressions, does not, when used in relation to a house or other construction, include the doing of any act necessary for keeping such house or construction, until the making of the award referred to in section 12 or until the exercise, prior to the making of the award, of the powers of demolition conferred, in case of emergency, by section 6, sub-sections (1) and (3), in the state in which it was at the time of
of

(Part I.—Preliminary.—Section 2.)

of the publication of the notice referred to in section 3, sub-section (2) :

- (i) the following persons shall be deemed “entitled to act” as and to the extent herein-after provided, that is to say,—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any case, and that to the same extent as the persons beneficially interested could have acted if free from disability :

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and, whether of full age or not, to the same extent as if she were unmarried and of full age : and

the guardians of minors and the committees or managers of lunatics or idiots shall be deemed respectively the persons so entitled to act, to the same extent as the minors, lunatics or idiots themselves, if free from disability, could have acted :

Provided that—

- (i) no person shall be deemed “entitled to act” whose interest in the subject-matter is shown to the satisfaction of the Collector or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act ;
- (ii) in every case the person interested may appear by a next friend or, in default of his appearance by a next friend, the Collector or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof ;
- (iii) the provisions of Chapter XXXI of the Code of Civil Procedure shall, *mutatis mutandis*, apply in the case of persons interested

appearing

(Part II.—Imposition of Restrictions.— Section 3.)

appearing before a Collector or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

- (iv) no person "entitled to act" shall be competent to receive the compensation-money payable to the person for whom he is entitled to act, unless he would have been competent to alienate the land upon the use and enjoyment of which restrictions are to be imposed and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

IMPOSITION OF RESTRICTIONS.

Declaration
and notice
that the
restrictions
will be
imposed.

3. (1) Whenever it appears to the Local Government that it is necessary to impose restrictions upon the use and enjoyment of land in the vicinity of any work of defence or of any site intended to be used or to be acquired for any such work, in order that such land may be kept free from buildings and other obstructions, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorized to certify its orders.

(2) The said declaration shall be published in the local official Gazette and shall state the district or other territorial division in which the land is situate and the place where a sketch plan of the land, which shall be prepared on a scale not smaller than six inches to the mile and shall distinguish the boundaries referred to in section 7, may be inspected; and the Collector shall cause public notice of the substance of the said declaration to be given at convenient places in the locality.

(3) The said declaration shall be conclusive proof that it is necessary to keep the land free from buildings and other obstructions.

4. It